

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK-----x
LAUREN COVINGTON,

Plaintiff,

- against -

METROPOLITAN TRANSPORTATION
AUTHORITY,

Defendant.

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06 Civ. 2687 (PAC) (THK)

ORDER

HONORABLE PAUL A. CROTTY, United States District Judge:

Pro se Plaintiff Lauren Covington (“Covington”) brings this action against Defendant Metropolitan Transportation Authority (“MTA”), alleging violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e et seq. (“Title VII”), the Americans with Disabilities Act of 1990, 42 U.S.C. § 12111 et seq. (“ADA”), and the Age Discrimination in Employment Act, 29 U.S.C. § 621 et seq. (“ADEA”), specifically hostile work environment, wrongful discharge, and retaliation, and violations of the Fourth and Fourteenth Amendments.¹ Covington also alleges common law defamation, intentional infliction of emotional distress, and negligence and violations of New York Executive Law § 296. Defendant now moves in the alternative for dismissal under Fed.R.Civ.P. 12(b)(6) or summary judgment under Fed.R.Civ.P. 56.

This case was referred by Judge Richard C. Casey to United States Magistrate Judge Theodore H. Katz, who issued his Report and Recommendation (“R&R”) on November 15, 2006, recommending that Defendant’s motion to dismiss be granted. The Magistrate Judge provided ten days for written objections, pursuant to Federal Rule of Civil Procedure 72(b), and specifically advised that the failure to file objections “will result in a waiver of objections for purposes of appeal.”

¹ The Court adopts Magistrate Judge Katz’s determination that Covington’s claims for violations of her constitutional rights are properly understood as arising under 42 U.S.C. § 1983.

(R&R 29). No objections have been filed. Due to Judge Casey's untimely passing, this case was reassigned to this Court on May 21, 2007.

DISCUSSION

"To accept the report and recommendation of a magistrate, to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record." Wilds v. United Parcel Serv., 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003). The Court finds no clear error in Magistrate Judge Katz's determinations that:

- (1) Covington's Title VII, ADA, and ADEA claims must be dismissed for failure to exhaust her administrative remedies, and are now time-barred, making leave to amend futile;
- (2) Covington's § 1983 claims arising from conduct before March 20, 2003 are time-barred under the applicable New York statute of limitations;
- (3) Covington's allegations regarding MTA's conduct after March 20, 2003 do not state a claim under § 1983, and leave to amend would be futile; and
- (4) in the absence of a valid federal claim, the Court should not exercise supplemental jurisdiction over Covington's state claims.

Accordingly, the Court accepts and adopts the R&R as its opinion, and Defendant's motion to dismiss is GRANTED. Plaintiff's federal claims are dismissed with prejudice, and her state claims are dismissed without prejudice to re-filing in state court. The Clerk of the Court is directed to enter an Order closing this case.

Dated: New York, New York
June 25, 2007 MR
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SO ORDERED


PAUL A. CROTTY
United States District Judge